

**CITY OF CENTRAL
CITY COUNCIL MEETING
December 16, 2014**

CALL TO ORDER

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 6:30 p.m., in City Hall on December 16, 2014.

ROLL CALL

Present: Mayor Engels
Alderman Spain
Alderman Gaines
Alderman Heider
Alderman Voorhies

Absent: None

Staff Present: City Manager Miera
City Clerk Bechtel
Attorney McAskin
Finance Director Flowers
Public Services Director Griffith
Police Chief Krelle
Fire Chief Allen

Executive Session

Alderman Spain moved to go into Executive Session pursuant to C.R.S. 24-6-402(4)(b) for the purpose of conferring with the City Attorney on specific legal questions regarding pending litigation specific to Gilpin County District Court cases and to invite City Manager Daniel Miera to participate and to reconvene following the Executive Session to take any necessary action and continue the regular meeting agenda items. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

At 7:03 p.m., Mayor Engels reconvened regular session.

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

The agenda was approved as presented.

CONFLICTS OF INTEREST

No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA

Alderman Gaines moved to approve the consent agenda containing the regular bill lists of December 4 and 11, 2014; and the City Council minutes for the meeting on December 2, 2014. Alderman Heider seconded. In discussion, Alderman Gaines questioned the payment for snow

removal at Prospectors Run. Finance Director Flowers explained that the contractor has returned some funds at the end of the season if there has not been a lot of snow. When Mayor Engels called the question, the motion carried unanimously.

CERTIFICATE OF RECOGNITION

Mayor Engels awarded a Certificate of Recognition to Chuck Spencer, owner of KOA, and Ryan Spencer, Manager of KOA, for Outstanding Customer Service and Quality Reviews. KOA has received the 2014 Founder's Award which is KOA's highest service award, presented to KOA owners that achieve world class service scores from their camping guests and the President's Award which is awarded to KOAs that meet exceptional quality standards and are recognized by their guests for outstanding service.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

SECOND READING AND PUBLIC HEARING

Ordinance No. 14-08: *An ordinance of the City Council of the City of Central amending Article V of Chapter 6 of the Central City Municipal Code regarding Gaming Device Fees.*

Finance Director Flowers explained that in 2011, the City Council approved Ordinance 11-16 to impose a marketing device fee in the amount of \$5.00 per month per device in order to fund advertising and marketing costs incurred by the CCBID. In 2012, the City Council approved Ordinance 12-12 that extended the same marketing device fee for calendar year 2013. In 2013, the City Council approved Ordinance 13-17 that extended the marketing device fee for calendar year 2014 with the ability to vary or adjust the marketing fee up to \$7 per device per month. The "adjustable" marketing device fee approved in 2013 via Ordinance 13-17 is set to expire on December 31, 2014, unless Council approves an extension of the marketing device fee. Ordinance 14-08 extends the marketing device fee through calendar year 2015.

First reading was held on December 2, 2014. The amount of the monthly device fee will be determined by the current number of devices within the City and the total projected amount needed by the CCBID to cover marketing expenses. The CCBID and the City Manager/Finance Director will establish a maximum budget amount that will be used in conjunction with the monthly device count to ensure that the appropriate amount is collected through the adjustable marketing device fees.

Currently, the adopted 2015 Budget allocates a total of \$154,283 for CCBID marketing and events. This is the amount that is projected to be collected from marketing related device fee collections during the year.

Mayor Engels opened the public hearing at 7:09 p.m. and invited comment. With no comments offered, Mayor Engels closed the public hearing at 7:10 p.m.

Alderman Gaines moved to adopt Ordinance No. 14-08: An ordinance of the City Council of the City of Central amending Article V of Chapter 6 of the Central City Municipal Code regarding Gaming Device Fees. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

ACTION ITEMS: NEW BUSINESS

Historic Preservation Commission Appointments – 2 seats and 1 alternate

Applicants for consideration are: Gina Fuerst, Deb Wray, Barb Thielemann, David Forsyth, and Mary Bell. Alderman Heider stated that she would prefer to see more residents serve on this Commission. Alderman Gaines recommended David Forsyth due to his knowledge and work with Gilpin History for 10-12 years even though he is not a resident. Mayor Engels added that all are qualified and he does not have a preference. Alderman Heider moved that the Mayor will appoint, with the concurrence of Council, Deb Wray and David Forsyth with Mary Bell as the alternate. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Planning Commission Appointments – 1 seat and 1 alternate

Mayor Engels noted there are two vacant seats and that with moving Lisa Leben, currently the alternate, to a regular seat, it leaves one seat and one alternate to be filled. The applicants for consideration are: Alison Hickok, Bobbie Hill, and Mary Bell. Mayor Engels added that all are qualified and he does not have a preference. Alderman Heider moved that the Mayor will appoint, with the concurrence of Council, Lisa Leben, the current alternate to a regular seat and Alison Hickok to the vacant seat with Bobbie Hill as the alternate. Alderman Voorhies seconded, and without discussion, the motion carried unanimously. Mayor Engels encouraged Mary Bell to participate in Main Street Central.

Resolution No 14-21: *A resolution of the City Council of the City of Central, Colorado approving the agreement by and between the City of Central and Colorado Coach Transportation, LLC for the operation of a transportation shuttle service.*

City Manager Miera explained that the proposed resolution approves a contract between the City of Central (“City”) and Colorado Coach Transportation, LLC (“Colorado Coach”) for the operation of a shuttle service within Central City, which includes stops in Black Hawk, primarily for the transportation of casino patrons between the various establishments.

The compensation for the service under this contract for 2015 is \$310,000. The FY15 Budget allocates sufficient funding to encumber this expense. The funds are derived from revenues collected via the Transportation Device Fee. Historically, the City has provided for the operation of a shuttle service in various forms, including most recently by contracting with Colorado Coach. During the past few years, the City has assigned the management and control of the shuttle service contract to the Central City Business Improvement District. During the recent budget preparation period, the City announced that it would resume the control and management of this service, effective January 1, 2015. As such, the City negotiated the proposed contract with Colorado Coach. The contract maintains the bulk of the service, while also reducing the compensation through minor adjustments to the service schedule. Over the past five (5) years, the cost of service has ranged between approximately \$413,000 and \$432,000. And, most recently the service schedule was set to operate seven (7) days per week between the hours of 10:00 a.m. and 2:00 a.m. During the renegotiation of the contract, the compensation was reduced by more than \$100,000, and to that end, the service schedule was adjusted and established as follows: Sunday-Thursday 11:00 a.m. to 12:00 a.m. (midnight), and Friday and Saturday 11:00 a.m. to 2:00 a.m. which will begin January 1, 2015.

Alderman Gaines questioned the use of chains by the large bus companies as well as our shuttle contractor. City Manager Miera responded that our shuttle service does use chains as needed.

Alderman Spain noted that this new schedule has the shuttle running between Central City and Black Hawk on a fifteen minute loop.

Alderman Gaines moved to approve Resolution No 14-21: A resolution of the City Council of the

City of Central, Colorado approving the agreement by and between the City of Central and Colorado Coach Transportation, LLC for the operation of a transportation shuttle service. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Resolution No. 14-22: *A resolution adopting and entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and taking other actions in connection therewith.*

Fire Chief Allen gave the background as follows: the City is required to participate in the Firefighter Heart and Circulatory Benefits Trust formed to cover entities' liability under Part 3, Article 5 of Title 29, Colorado Revised Statutes (CRS).

Funding will be provided by the City of Central and reimbursed by Department of Local Affairs (DOLA) for the cost of \$175 as long as the funds are available then it will be the City's responsibility. The Firefighter Heart and Circulatory Benefits Trust was formed to cover entities' liability under Part 3, Article 5, Title 29, Colorado Revised Statutes (CRS). This new statute requires any full time firefighter with continuous, full-time employment with an employer for at least five (5) years be provided a defined level of benefits for certain Heart and Circulatory malfunctions. A state reimbursement fund has been established through the Department of Local Affairs (DOLA). Entities must certify their number of eligible firefighters and submit specific documents to participate in the program. This will be supplemental coverage paid per health event.

Alderman Heider moved to approve Resolution No. 14-22: A resolution adopting and entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and taking other actions in connection therewith. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 14-23: *A resolution appropriating additional sums of money to defray expenses in excess of amounts originally appropriated in the 2014 Budget for the City of Central.*

Finance Director Flowers gave the background as follows: the City's 2014 Budget was adopted under Ordinance 13-16 on November 19, 2013. Over the course of 2014 there have been several necessary expenditures that were not anticipated when adopting the 2014 Budget. The most significant of these expenditures was the Central City Parkway rockslide remediation that took place during the 3rd quarter of the year. The total cost of the remediation was approximately \$806,000. Although staff made a number of budgetary cuts across all funds and refrained from moving forward on a number of budgeted capital expenditures in order to lessen the impact of this project, the expenditure amounts originally appropriated in Ordinance 13-16 are not sufficient. Therefore, a supplemental appropriation is necessary in order to remain in compliance with statutory budget law. Supplemental budget appropriations are necessary for the General, Historic Preservation and Public Property Trust Funds due to the above unanticipated expenditures. Resolution 14-23 adopts supplemental appropriations for these three (3) funds. As stated above three (3) of the City's funds require supplemental budget appropriations due to unanticipated expenses throughout the year. The funds and amounts of additional appropriations needed are shown below.

	<u>Original</u>	<u>Amended</u>	<u>Increase</u>
General Fund	\$4,469,610	\$4,610,000	\$140,390
Historic Preservation	\$ 433,794	\$ 540,000	\$106,206
Public Property Trust	\$ 103,628	\$ 227,075	\$123,447
Total Increase in Appropriations			\$370,043

The requested increases in allocations for all funds are reflective of the 2014 year-end actuals. All three of the funds requiring supplemental appropriations funded a portion of the CCP rockslide expenditures; the General Fund allocated \$301,084, the Historic Preservation Fund allocated \$278,456 and the Public Property Trust Fund allocated \$227,075. Other budgetary cuts, such as not rehiring Police and Public Works Department positions and making budgeted capital repairs in the Water Fund (with transfer from the HP Fund) were able to make up the remaining \$435,957 in rockslide expenditures.

Adoption of Resolution 14-23 is necessary to ensure that the City remains in compliance with state budget laws. Not formally appropriating additional funding could put the City in violation of TABOR as well as other state laws.

Alderman Voorhies moved to approve Resolution No. 14-23: A resolution appropriating additional sums of money to defray expenses in excess of amounts originally appropriated in the 2014 Budget for the City of Central. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Acceptance of Caselle Accounting Software Proposal for \$42,893

Finance Director Flowers explained that the City council appropriated \$50,000 in the Finance Department's 2014 Budget for the purchase of new accounting software (line-item 01-415-7432). The Finance Department's existing accounting software was purchased in 1996 and therefore is outdated and does not integrate well with other systems and/or newer technologies.

Over the course of the 3rd and 4th quarters of the year the Finance Department staff looked into several different governmental accounting software packages to see which ones would best serve the City's needs. The two software packages that best suited the City's needs were Caselle and Black Mountain Accounting. Quotes were obtained from both companies. Caselle's quote was \$42,893 and Black Mountain's was \$41,140. Although slightly more (\$1,753), staff feels that Caselle offers the City a much better product for the price. Caselle is a large company widely used by municipal governments and for that reason is able to provide a higher level of customer service; this is one of the most important criteria for staff. Further, the proposal from Caselle includes all software upgrades over the life of the software, whereas upgrades from other companies would cost the City additional money at the time of the upgrade. After reviewing the quotes and the differences in services provided, staff feels that Caselle is a much better fit for both the City's needs and justifies the price.

In accordance with the Chapter 4, Article IX, Section 4-9-40 of the City's Municipal Code, the City Council is required to approve the purchase of this software because the total cost is over \$25,000. The total purchase price, including all training and implementation is \$42,893.00. The City will be paying 50% (\$21,446.50) at the time of purchase and the remaining 50% once implementation and training have been completed. Given Council's approval, a check in for the first 50% will be issued and Caselle will begin conversion and implementation within approximately one week. The entire conversion process is expected to take anywhere from 60 to 90 days. Although staff normally would attend a one week training in Utah, Caselle has agreed to send trainers to Central City instead due to the limited number of City Hall staff.

In the 2014 Budget, there is \$50,000 allocated in the Finance Department line item 01-415-7432

for the purchase of accounting software. With Council approval, a check in the amount of \$21,446.50 will be issued to Caselle. The remaining half will be paid when the conversion is complete in 60 to 90 days. Although one half will be paid in 2015, because it is a 2014 purchase, the entire amount will be reflected as an expense in 2014.

Alderman Gaines moved to accept the Caselle accounting software proposal in the amount of \$42,893.00 and authorize staff to move forward with the purchase of the software. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 14-24: *A resolution of the City Council of the City of Central, Colorado approving the Third Amendment to the Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District.*

Attorney McAskin explained that via Ordinance 14-08, the City Council has extended the \$5.00 per month gaming device fee (the "Marketing Fee") for calendar year 2015. The Marketing Fee may be adjusted to a maximum of \$7.00 per device per month, as set forth in the Ordinance. The City's existing intergovernmental agreement with the Central City Business Improvement District (the "CCBID") dated April 20, 2012 (the "IGA") must be amended in order to reflect the extension of the Marketing Fee and to establish the terms and conditions under which the CCBID will use the funds generated by the Marketing Fee in 2015 to accomplish the joint advertising and marketing goals of the City and the CCBID. The IGA was previously amended and extended for calendar years 2013 and 2014, by the First Amendment to the IGA (covering calendar year 2013) and the Second Amendment to the IGA (covering calendar year 2014). The proposed Third Amendment to the IGA (the "Third Amendment") is attached to the proposed Resolution as **Exhibit 1**. City Council may approve the Third Amendment to memorialize the terms under which the CCBID will utilize the funds generated by the Marketing Fee in 2015.

The City implemented the Marketing Fee in 2011 (for collection and use in 2012); there are no fiscal impacts with the Council's extension of the Marketing Fee for 2015 or with the approval of the Third Amendment. The collection and disbursement of the Marketing Fee to the CCBID is set forth in the approved 2015 Budget.

As set forth above, the IGA is dated April 20, 2012. The IGA, as amended by the Second Amendment approved in December of 2013, is scheduled to terminate on December 31, 2014. Paragraph 4.C. of the IGA requires that any amendment to the IGA be set forth in writing and executed by both the City and the CCBID. Substantive provisions of the Third Amendment include:

- Recital of the fact that the Marketing Fee is projected to generate approximately \$154,283.00 in revenue during calendar year 2015.
- Marketing Fee revenues may only be used by the CCBID for costs and expenses associated with implementing the 2015 Marketing Plan or other costs and expenses approved by the City Manager in writing.
- Effective January 1, 2015, the City will resume all funding and management responsibilities for the provision of transportation shuttle services.
- The monthly fee for the CCBID's management of the shuttle services, as set forth and described in the First Amendment and Second Amendment to the IGA, is terminated. On and after January 1, 2015, no management fee will be paid to the CCBID.
- The term of the Third Amendment runs through December 31, 2015.

Alderman Gaines asked about the difference between Ordinance No. 14-08 and this proposed Resolution. Attorney McAskin explained that the Ordinance approves the imposition and the Resolution outlines the terms of how the money is spent.

Joe Behm, CCBID, offered that the plan regarding 2015 will include the Distilleries, Beer and Bacon events along with support of the Pit Rally. The BID has asked the City to contribute \$50,000 on top of the business imposed self tax to help cover the cost of these events and the direct marketing efforts that were also done last year. The businesses are hopeful that traffic counts will increase now that most of the work on I-70 is wrapping up.

Alderman Voorhies moved to approve Resolution No. 14-24: A resolution of the City Council of the City of Central, Colorado approving the Third Amendment to the Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

Resolution No. 14-25: A resolution of the City Council of the City of Central, Colorado adopting Hearing Procedures for the Central City Retail Marijuana Store Licensing Authority.

Attorney McAskin explained that via Ordinance 13-09, the City Council enacted municipal code provisions regulating retail marijuana stores within the City. Those provisions require the City Council to serve as the Central City Retail Marijuana Store Licensing Authority (“Authority”). The Authority is charged with granting or refusing licenses to applicants seeking to operate a retail marijuana store pursuant to criteria set forth in the municipal code. Although the Authority has delegated this function to the City Manager for some applications such as existing medical adding or changing to retail, it retains that function for other applicants, including those who do not currently hold a City license for a medical marijuana business. The Authority is also authorized to promulgate rules and regulations concerning procedures for hearings before the Authority. Resolution No. 14-25 adopts rules of procedure for the Authority.

The proposed Central City Retail Marijuana Store Licensing Authority Rules of Procedure are attached to Resolution No. 14-25 as **Exhibit 1**. Under state law, a retail marijuana business may not operate until it is licensed by the state licensing authority and approved by the local jurisdiction in which the business proposes to operate per C.R.S. § 12-43.4-309. Local licensing authorities are required to determine whether an application complies with local restrictions on the operation of the business and to inform the state licensing authority of its determination per C.R.S. § 12-43.4-301. The proposed procedures set forth rules and processes to guide the Authority in fulfilling its obligations under state and local law.

Alderman Gaines moved to approve Resolution No. 14-25: A resolution of the City Council of the City of Central, Colorado adopting Hearing Procedures for the Central City Retail Marijuana Store Licensing Authority. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

LOCAL LICENSE AUTHORITY (Central City Retail Marijuana Store Licensing Authority)
Eureka Supply Co., LLC at 109 Eureka for a Retail Marijuana License

Alderman Voorhies moved to open the Local License Authority. Alderman Spain seconded, and without discussion, the motion carried unanimously.

The staff report from City Clerk Bechtel explained that on November 19, 2014, the City received an

application from Eureka Supply Co., LLC for a local license for a retail marijuana store. Currently, the City's retail marijuana store regulations require the Authority to approve, conditionally approve, or deny an application within thirty (30) days of receipt of a complete application. The City's regulations also require the Authority to make a finding and determination as to the good moral character of the Applicant in accordance with standards set forth in state law. The staff report indicates that the Applicant has fulfilled all local requirements for a retail marijuana business license, with the exception of a determination concerning Applicant's moral character.

Based upon the information that the Applicant has provided to the City and City staff's investigation of Applicant and all relevant information it provided as reflected in the attached staff report, and subject to the Authority's findings concerning the moral character of Applicant and associated persons, staff recommends that City Council, sitting as the members of the Central City Retail Marijuana Store Licensing Authority conditionally approve Applicant's application to operate a retail marijuana store.

Travis Howard and Rob McEvoy, applicants and partners of Eureka Supply Co., LLC introduced themselves and reviewed their background in the marijuana industry. They noted that Gene Brown will be the Manager on site. The security plan will be more than adequate as they do not intend to cut corners. They responded to other questions by Council as follows:

- 1) Regarding their ability to compete with 2 established retail stores – they have been very successful in Boulder due to the quality of their customer service
- 2) Location is off the main route - this is a challenge they will work on with marketing a small business
- 3) Oxygen Bar – it will continue to be a part of the business and be an added attraction for the health benefits it provides

Police Chief Krelle stated the City has no concerns regarding the background check as approved by the State Licensing Authority and sees no reason not to approve.

Although not required, Mayor Engels invited Public comment. No one came forward.

Alderman Gaines moved to conditionally approve the application of Eureka Supply Co., LLC based upon the information presented in the staff report and other information brought forth at this meeting and to direct staff to prepare a Record of Decision on this application that incorporates the findings, conclusions, and all recommended conditions in the staff report, the Authority's finding as to the Applicant's moral character, and any other conditions imposed on the application. The Authority further directs staff to provide a copy of this decision within three (3) days of today's date to both the Applicant and the State of Colorado marijuana licensing authority by certified mail at the address shown in the application. The conditions are as follows:

1. Applicant's compliance with (1) the Central City Municipal Code; (2) the Colorado Retail Marijuana Code; (3) all rules and regulations promulgated pursuant to those Codes.
2. Applicant's payment of all required City fees to the City Clerk prior to issuance of the license.
3. Applicant shall ensure that all improvements to the Premises are completed to the satisfaction of the City and the City must have issued either a Certificate of Occupancy or a Temporary Certificate of Occupancy for the Premises.

4. The City shall not issue a license for the proposed Retail Marijuana Store unless and until the City building official has inspected the premises proposed for licensure and determined that the premises comply with the City's building and other life, health, and safety codes.
5. All licenses issued pursuant to this decision are contingent upon the Applicant maintaining current, operational licenses from the state licensing authority.

Alderman Voorhies seconded, and without discussion, the motion carried unanimously. Mayor Engels extended congratulations and welcomed the new business to Central City.

Alderman Gaines moved to close the Local License Authority. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

STAFF UPDATES

City Manager Miera referred to the staff reports in the packet.

Alderman Gaines had several questions for staff:

- 1) City Manager Miera to give further information on any development as they move forward. City Manager Miera responded that he will definitely give updates as projects move forward.
- 2) Public Services Director Griffith regarding the Xcel project asphalt. Public Services Director Griffith explained that Xcel will cold patch the area on Prosser until warmer weather in the spring.
- 3) Police Chief Krelle regarding the food drive. Police Chief Krelle said that the project has gone very well.

Alderman Voorhies asked if there is any progress with AT&T or a new tower. City Manager Miera said there has not been any progress with AT&T since August and staff has not had any conversations with any other company.

COUNCIL COMMENTS

Alderman Gaines thanked the Public Works Department for the holiday decorations.

Alderman Voorhies thanked all the volunteers for their efforts regarding the Tommyknocker event.

Alderman Heider thanked Public Services Director Griffith and the crew for their hard work during the recent snow event.

PUBLICFORUM/AUDIENCENPARTICIPATION

Joe Behm, CCBID, noted that having a third marijuana business will allow staff to release information regarding the tax revenue generated by those businesses as a whole. Mr. Behm also explained that the charter bus company drivers are the ones that make the decision if the road conditions are acceptable to them coming up to Central City. And finally, Mr. Behm added that the CCBID met with City Manager Miera and the bond holders and the investors are looking at options for the District.

At 8:32 p.m., Mayor Engels adjourned the meeting.

The next Council meeting is scheduled for January 6, 2015 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk